

Message Text

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PAGE 01 BONN 00850 01 OF 02 171342Z
ACTION EUR-12

INFO OCT-01 ISO-00 L-03 DODE-00 TRSE-00 SCS-06 CA-01
SSO-00 /023 W
-----030475 171350Z /53
O 171316Z JAN 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC IMMEDIATE 4838
INFO USMISSION USBERLIN IMMEDIATE

LIMITED OFFICIAL USE SECTION 01 OF 02 BONN 00850

DEPARTMENT FOR EUR/CE - CHESTER; L/M - MALMBORG

BERLIN FOR SURENA

E.O. 11652: N/A
TAGS: AFSP, AINF, GW
SUBJECT: INCOME AND FICA TAX LIABILITY OF LOCAL
NATIONAL HIRE U.S. CITIZENS IN BERLIN

REFS: (A) SECDEF CABLE TO CINCUSAREUR DTG 130023Z JAN 78
(B) MALMBORG-PFUND LETTER 12/8/77
(C) DA WASHDC CABLE TO CINCUSAREUR DTG
301818Z NOV 77
(D) 77 BONN 16996
(E) 77 BONN 16204

1. BY REFTEL A, DOD INFORMS ADDRESSEES (CINCUSAREUR, CINCUSNAVEUR, CINCUSAFE) THAT THEY ARE AUTHORIZED TO COOPERATE WITH BONN IRS ATTACHE BY PROVIDING, IF REQUESTED, NAMES, SALARY INFORMATION AND SOCIAL SECURITY NUMBERS OF SUBJECT US NATIONALS AND US PERMANENT RESIDENTS IN BERLIN AND FRG, IN ACCORDANCE WITH SYSTEMS NOTICE APPLICABLE AND PUBLISHED IN FEDERAL REGISTER IAW PRIVACY ACT (5 USC 552A). OTHER
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PAGE 02 BONN 00850 01 OF 02 171342Z

REQUESTS ARE TO BE REFERRED TO DOD FOR CASE-BY-CASE DETERMINATION. IT IS STATED THAT THIS WOULD MEET REQUIREMENT RAISED BY IRS WITH STATE, DOD AND TREASURY REPS AT MID-DECEMBER MEETING.

2. REFTEL A AND ABSENCE OF ANY WORD FROM STATE CONCERNING MID-DECEMBER MEETING AT STATE, LEAVE EMBASSY

AND US MISSION BERLIN UNCERTAIN WHAT DEPARTMENT BELIEVES SHOULD BE DONE CONCERNING THE EMPLOYEES, BOTH STATE AND DOD, FALLING WITHIN THIS CATEGORY. SHOULD BERLIN PROVIDE SOCIAL SECURITY NUMBERS EVEN IF IRS ATTACHE HAS NOT DIRECTLY REQUESTED THEM FROM THE PERSONS IN QUESTION? HAVE ASPECTS OF MATTER RAISED IN REFTELS D AND E BEEN DISCUSSED (SEE ALSO PFUND-MALMBORG LETTERS OF AUGUST 23 AND SEPTEMBER 6, 1977, AND SURENA LETTER OF SEPTEMBER 2, 1977)? IF SO, WITH WHAT RESULT?

3. IF IRS EVENTUALLY REACHES FINAL CONCLUSION THAT DOD AND STATE EMPLOYEES IN BERLIN, PAID OUT OF OCCUPATION COST BUDGET (OCB), ARE SUBJECT TO US INCOME AND FICA TAXES, WILL THIS APPLY ALSO TO ARREARS? HOW WILL ARREARS BE HANDLED AND WHO WILL PAY THEM? AS OF WHEN WOULD FEDERAL INCOME TAX AND FICA WITHDRAWALS NEED TO COMMENCE. WOULD THEY BE CURRENT ONLY, OR WOULD THEY INCLUDE RETROACTIVELY DUE TAX AND FICA? AS OF ANY DATE TO WHICH THEY WOULD BE RETROACTIVE, SALARIES THAT HAVE BEEN LOWER IN VIEW OF NON-LIABILITY HITHERTO FOR US AND GERMAN TAXES WOULD NEED TO BE RAISED TO FULL LEVEL, MEANING THAT AMOUNT OF THAT RISE WOULD BE PASSED ONTO BERLIN (FRG) AUTHORITIES VIA OCB. WHAT GUIDANCE DOES DEPARTMENT HAVE FOR EXPLAINING TO GERMANS THAT QUANTUM INCREASE IN SALARIES WHICH IN EFFECT FLOW DIRECTLY INTO US TREASURY AS TAXES, AND WITH LIMITED OFFICIAL USE

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PAGE 03 BONN 00850 01 OF 02 171342Z

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PAGE 01 BONN 00850 02 OF 02 171337Z
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INFO OCT-01 ISO-00 L-03 DODE-00 TRSE-00 SCS-06 CA-01
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LIMITED OFFICIAL USE SECTION 02 OF 02 BONN 00850

RESPECT TO WHICH WE DO NOT KNOW WHAT EFFORTS MAY HAVE BEEN MADE TO AVOID THAT TAX LIABILITY?

4. AS ABOVE PARAS WERE BEING TYPED, WE RECEIVED MISSION BERLIN'S 0117 WHICH DESCRIBES SPENCER'S ACTIVITIES IN BERLIN APPARENTLY ON BASIS OF IRS UNDERSTANDING OF RESULTS OF MID-DECEMBER INTER-AGENCY MEETING IN WASHINGTON. THAT CABLE ALSO DESCRIBES CONFUSION IN BERLIN IN ABSENCE OF GUIDANCE CONCERNING DECISIONS TAKEN IN VIEW SPECIAL SITUATION IN BERLIN AND POSSIBLY NECESSARY ADMINISTRATIVE CONSEQUENCES CONCERNING SALARIES AND EXPECTATIONS OF AFFECTED INDIVIDUALS. UNTIL DEPARTMENT FURNISHES ESSENTIAL GUIDANCE AND REACTION TO EMBASSY'S EARLIER INSTRUCTIONS TO SPENCER TO POSTPONE HIS ACTIVITIES CONCERNING OCB-FINANCED SUBJECT US NATIONALS AND RESIDENTS IN BERLIN, WE ARE REITERATING TO SPENCER THAT HE SHOULD NOT REPEAT NOT MAKE STATEMENTS, AUDITS OR INQUIRIES CONCERNING STATUS OF PERSONS ENCOMPASSED BY SUBJECT OF THIS CABLE. DEPARTMENT WILL BE AWARE THAT SPENCER SHOULD NOT RESUME FUNCTIONS IN BERLIN ON BASIS OF ARMY WILLINGNESS AND IRS HEADQUARTERS INSTRUCTIONS UNTIL HE HAS RECEIVED EMBASSY CONCURRENCE. LIMITED OFFICIAL USE

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PAGE 02 BONN 00850 02 OF 02 171337Z

AS SPENCER IS STILL IN BERLIN, DEPARTMENT GUIDANCE IS REQUESTED ASAP.
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